

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 626

FINAL READING

Introduced by Karpisek, 32.

Read first time January 21, 2009

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to public officials and public employees; to
2 amend sections 49-1405 and 81-1120.27, Reissue Revised
3 Statutes of Nebraska, and sections 49-1401, 49-14,101.01,
4 and 49-14,101.02, Revised Statutes Cumulative Supplement,
5 2008; to change provisions relating to use of public
6 resources by public officials and public employees; to
7 redefine a term; to harmonize provisions; and to repeal
8 the original sections.

9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 49-1401, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 49-1401 Sections 49-1401 to 49-14,141 and section 3 of
4 this act shall be known and may be cited as the Nebraska Political
5 Accountability and Disclosure Act.

6 Sec. 2. Section 49-1405, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 49-1405 (1) Ballot question shall mean any question which
9 is submitted or which is intended to be submitted to a popular vote
10 at an election, including, but not limited to, a question submitted
11 or intended to be submitted by way of initiative, referendum,
12 recall, or judicial retention, ~~or bond issue or as a result of~~
13 ~~legislative action or action of a government body,~~ whether or not
14 it qualifies for the ballot.

15 (2) Ballot question shall also mean any question which
16 has been submitted to a popular vote at an election as a result
17 of legislative action or adoption of a resolution by a political
18 subdivision to place an issue or issues on the ballot.

19 Sec. 3. (1) Any use of public resources by a public
20 official or public employee which is incidental or de minimis shall
21 not constitute a violation of section 49-14,101.01 or 49-14,101.02.

22 (2) For purposes of sections 49-14,101.01 and
23 49-14,101.02, a resource of government, including a vehicle, shall
24 not be considered a public resource and personal use shall not be
25 prohibited if (a) the use of the resource for personal purposes

1 is part of the public official's or public employee's compensation
2 provided in an employment contract or a written policy approved
3 by a government body and (b) the personal use of the resource
4 as compensation is reported in accordance with the Internal
5 Revenue Code of 1986, as amended, and taxes, if any, are paid.
6 If authorized by the contract or policy, the resource may be used
7 whether or not the public official or public employee is engaged in
8 the duties of his or her public office or public employment.

9 (3) Use of a government vehicle by a public official or
10 public employee to travel to a designated location or the home
11 of the public official or public employee is permissible when the
12 primary purpose of the travel serves a government purpose and the
13 use is pursuant to a written policy approved by a government body.

14 (4) Pursuant to a collective-bargaining agreement, a
15 public facility may be used by a bargaining unit to meet regarding
16 activities of the union or bargaining unit. This section shall
17 not authorize the use of public resources for the purpose of
18 campaigning for or against the nomination or election of a
19 candidate or the qualification, passage, or defeat of a ballot
20 question.

21 (5) Nothing in the Nebraska Political Accountability and
22 Disclosure Act prohibits a public official or public employee from
23 using his or her personal cellular telephone, electronic handheld
24 device, or computer to access a wireless network to which access is
25 provided to the public by a government body.

1 Sec. 4. Section 49-14,101.01, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 49-14,101.01 (1) A public official or public employee
4 shall not use or authorize the use of his or her public office
5 or any confidential information received through the holding of
6 a public office to obtain financial gain, other than compensation
7 provided by law, for himself or herself, a member of his or
8 her immediate family, or a business with which the individual is
9 associated.

10 (2) A public official or public employee shall not use or
11 authorize the use of personnel, resources, property, or funds under
12 his or her official care and control other than in accordance with
13 prescribed constitutional, statutory, and regulatory procedures or
14 use such items, other than compensation provided by law, for
15 personal financial gain.

16 (3) Unless otherwise restricted by an employment
17 contract, a collective-bargaining agreement, or a written agreement
18 or policy approved by a government body, a public official or
19 public employee may use a telecommunication system, a cellular
20 telephone, an electronic handheld device, or a computer under the
21 control of a government body for email, text messaging, a local
22 call, or a long-distance call to a child at home, a teacher,
23 a doctor, a day care center, a baby-sitter, a family member,
24 or any other person to inform any such person of an unexpected
25 schedule change or for other essential personal business. Any such

1 communication shall be kept to a minimum and shall not interfere
2 with the conduct of public business. A public official or public
3 employee shall be responsible for payment or reimbursement of
4 charges, if any, that directly result from any such communication.
5 An agency or government body may establish procedures for
6 reimbursement of charges pursuant to this subsection.

7 ~~(3)~~ (4) A public official shall not accept a gift
8 of travel or lodging or a gift of reimbursement for travel or
9 lodging if the gift is made so that a member of the public
10 official's immediate family can accompany the public official in
11 the performance of his or her official duties.

12 ~~(4)~~ (5) A member of the immediate family of a public
13 official shall not accept a gift of travel or lodging or a gift of
14 reimbursement for travel or lodging if the gift is made so that a
15 member of the public official's immediate family can accompany the
16 public official in the performance of his or her official duties.

17 ~~(5)~~ (6) This section does not prohibit the Executive
18 Board of the Legislative Council from adopting policies that allow
19 a member of the Legislature to install and use with private funds a
20 telephone line, telephone, and telefax machine in his or her public
21 office for private purposes.

22 ~~(6)~~ (7) Except as provided in section 23-3113, any person
23 violating this section shall be guilty of a Class III misdemeanor,
24 except that no vote by any member of the Legislature shall subject
25 such member to any criminal sanction under this section.

1 Sec. 5. Section 49-14,101.02, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 49-14,101.02 (1) For purposes of this section, public
4 resources means personnel, property, resources, or funds under the
5 official care and control of a public official or public employee.

6 (2) Except as otherwise provided in this section, a
7 public official or public employee shall not use or authorize
8 the use of public resources for the purpose of campaigning for
9 or against the nomination or election of a candidate or the
10 qualification, passage, or defeat of a ballot question.

11 (3) This section does not prohibit a public official or
12 public employee from making government facilities available to a
13 person for campaign purposes if the identity of the candidate or
14 the support for or opposition to the ballot question is not a
15 factor in making the government facility available or a factor in
16 determining the cost or conditions of use.

17 (4) This section does not prohibit a governing body from
18 discussing and voting upon a resolution supporting or opposing a
19 ballot question or a public corporation organized under Chapter 70
20 from otherwise supporting or opposing a ballot question concerning
21 the sale or purchase of its assets.

22 (5) This section does not prohibit a public official or a
23 public employee under the direct supervision of a public official
24 from responding to specific inquiries by the press or the public as
25 to his or her opinion regarding a ballot question or from providing

1 information in response to a request for information.

2 (6) This section does not prohibit a member of the
3 Legislature from making use of public resources in expressing his
4 or her opinion regarding a candidate or a ballot question or from
5 communicating that opinion. A member is not authorized by this
6 section to utilize mass mailings or other mass communications at
7 public expense for the purpose of campaigning for or against the
8 nomination or election of a candidate. A member is not authorized
9 by this section to utilize mass mailings at public expense for the
10 purpose of qualifying, supporting, or opposing a ballot question.

11 (7) This subsection applies to public officials other
12 than members of the Legislature provided for in subsection (6)
13 of this section. This section does not prohibit, in the normal
14 course of his or her duties, a public official or a public employee
15 under the direct supervision of a public official from using
16 public resources to research and prepare materials to assist the
17 government body for which the individual is a public official or
18 public employee in determining the effect of the ballot question on
19 the government body. This section does not authorize mass mailings,
20 mass duplication, or other mass communications at public expense
21 for the purpose of qualifying, supporting, or opposing a ballot
22 question. Mass communications shall not include placing public
23 records demonstrating the consequences of the passage or defeat
24 of a ballot question affecting the government body for which the
25 individual is a public official or public employee on existing web

1 sites of such government body.

2 ~~(7)~~ (8) Nothing in this section prohibits a public
3 official from campaigning for or against the qualification,
4 passage, or defeat of a ballot question or the nomination or
5 election of a candidate when no public resources are used.

6 ~~(8)~~ (9) Nothing in this section prohibits a public
7 employee from campaigning for or against the qualification,
8 passage, or defeat of a ballot question or the nomination or
9 election of a candidate when no public resources are used. Except
10 as otherwise provided in this section, a public employee shall
11 not engage in campaign activity for or against the qualification,
12 passage, or defeat of a ballot question or the nomination or
13 election of a candidate while on government work time or when
14 otherwise engaged in his or her official duties.

15 ~~(9)~~ (10) This section does not prohibit an employee of
16 the Legislature from using public resources consistent with this
17 section for the purpose of researching or campaigning for or
18 against the qualification, passage, or defeat of a ballot question
19 if the employee is under the direction and supervision of a member
20 of the Legislature.

21 (11) Nothing in this section prohibits a public official
22 or public employee from identifying himself or herself by his or
23 her official title.

24 Sec. 6. Section 81-1120.27, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 81-1120.27 (1) The facilities of the state's
2 telecommunications systems are provided for the conduct of
3 state business. In addition, the state's telecommunications
4 systems, cellular telephones, electronic handheld devices, or
5 computers may be used by state employees and officials for emails,
6 text messaging, local calls, and long-distance calls to children
7 at home, teachers, doctors, day care centers, and baby-sitters,
8 ~~to~~ family members, or others to inform them of unexpected
9 schedule changes, and for other essential personal business.
10 ~~The use of the state's telecommunications systems~~ Any such use
11 for essential personal business shall be kept to a minimum and
12 shall not interfere with the conduct of state business. ~~Essential~~
13 ~~personal long-distance calls shall be either collect, charged to~~
14 ~~a third-party, nonstate number, or charged to a personal credit~~
15 ~~card.~~ A state employee or official shall be responsible for payment
16 or reimbursement of charges, if any, that directly result from any
17 such communication. The Department of Administrative Services may
18 establish procedures for reimbursement of charges pursuant to this
19 section.

20 (2) A member of the Legislature, while engaged in
21 legislative business, may make personal long-distance calls on
22 the state telecommunications system or by using his or her state
23 credit card. At the end of every month upon the member's receipt
24 of his or her long-distance call record, the personal long-distance
25 calls shall be designated by the member and the member billed

1 for such calls. Reimbursement to the state for such personal
2 long-distance calls by the member shall be made within thirty days
3 from the date of designation.

4 (3) A member of the Legislature, at his or her own sole
5 discretion, may designate any long-distance call as sensitive or
6 confidential in nature. If a long-distance call is designated as
7 sensitive or confidential in nature, any long-distance call record
8 used in an audit shall contain only the date the long-distance call
9 was made and the cost of the call. In no case shall the person
10 conducting the audit have access to a long-distance call number
11 designated as sensitive or confidential in nature by the member
12 without the written consent of the member. No calls made to or by
13 a member of the Legislature which are sensitive or confidential in
14 nature shall be required to be disclosed except that such calls
15 shall be so designated by the member, and only the amount of the
16 call and such designation shall be made available to a person
17 conducting an audit.

18 For purposes of this subsection, sensitive or
19 confidential in nature shall mean that either the member of the
20 Legislature or the caller would reasonably expect that the nature
21 or the content of the call would not be disclosed to another person
22 without the consent of the member and the caller.

23 Sec. 7. Original sections 49-1405 and 81-1120.27, Reissue
24 Revised Statutes of Nebraska, and sections 49-1401, 49-14,101.01,
25 and 49-14,101.02, Revised Statutes Cumulative Supplement, 2008, are

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1 repealed.